

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

WADE KNIGHT,

Petitioner,

v.

JULIE CAVANAUGH-BILL ,

Respondent.

Case No. 3:14-cv-00209-MMD-WGC

ORDER

In the order of November 4, 2015, the Court noted that petitioner was trying to sue his court-appointed attorney for monetary damages pursuant to 42 U.S.C. § 1983, and that such a claim was not available because a court-appointed attorney does not act under color of state law when representing a person in criminal proceedings. *Polk County v. Dodson*, 454 U.S. 312, 325 (1981). The Court gave petitioner the opportunity to challenge the validity of his custody by filing a petition for a writ of habeas corpus. Petitioner has not filed a petition within the allotted time, and the Court will dismiss this action.

To the extent that a certificate of appealability is required, reasonable jurists would not find the Court's conclusion to be debatable or wrong, and the Court will not issue a certificate of appealability. The Court also concludes that an appeal from this decision would not be taken in good faith.

1           It is therefore ordered that this action is dismissed without prejudice for  
2 petitioner's failure to file a petition for a writ of habeas corpus. The Clerk of the Court  
3 shall enter judgment accordingly.

4           It is further ordered that a certificate of appealability is denied.

5           DATED THIS 22<sup>nd</sup> day of January 2016.

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8           MIRANDA M. DU  
9 UNITED STATES DISTRICT JUDGE  
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